

1 January 27, 2017



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4 **Talbot County Planning Commission**
5 **Final Decision Summary**

6 Wednesday, December 7, 2016 at 9:00 a.m.
7 Bradley Meeting Room
8 11 N. Washington Street, Easton, Maryland
9 Wye Oak Room, Community Center
10028 Ocean Gateway, Easton, Maryland

10 **Attendance:**

11 Commission Members:

- 12
- 13 William Boicourt, Chairman
- 14 John N. Fischer, Jr., Vice Chairman
- 15 Michael Sullivan
- 16 Paul Spies
- 17 Phillip “Chip” Councill
- 18

20 Staff:

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- 22 Elisa Deflaux, Environmental Planner
- 23 Carole Sellman, Recording Secretary
- 24 Victoria Rachel, Temporary Recording Secretary
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28 **1. Call to Order**—Commissioner Boicourt called the meeting to order at 9:00 a.m.

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30 **2. Decision Summary Review**—November 2, 2016—The Commission noted the
31 following corrections to the draft decision summary:

- 32 a. Line 362, is a little confusing, it should read: “The County serves the hotel’s
33 septic system, which is directly next to Mr. Shannahan’s.”
- 34 b. Line 363, clarification helpful, correct to read: “Livingston septic service has been
35 pumping out Mr. Shannahan’s septic system on a regular basis.”
- 36 c. Line 401, correct to read: “She has a Master’s in Public Administration and a
37 Master’s in City and Regional Planning, and has worked in County Government
38 and in the public sector for a non-profit.”
- 39 d. Line 585, take out the first might, should read; “But some of the smaller
40 vegetation might be a stronger ultimate development.”
- 41 e. Line 609, correct to read; “Mr. Pullen said in our particular set up with our
42 revenue cap what will happen is that that property will be excluded from the
43 base.”
- 44

45 **Commissioner Fischer moved to approve the draft Planning Commission**
46 **Decision Summary for November 2, 2016, as amended; Commissioner**
47 **Sullivan seconded the motion. The motion carried unanimously.**

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49 **3. Old Business**-None.

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51 **4. New Business**

- 52
- 53 a. Administrative Variance—Charles Webb, #A230-22601 River Ridge Rd,
54 Bozman, MD 21612, (map 31, grid 14, parcel 370, zoned Rural Conservation),
55 Bill Stagg, Lane Engineering, LLC, Agent.

56
57 Elisa Deflaux presented the staff report of the applicant’s request for eight
58 separate items. The specific proposed improvements are annotated as follows:
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- 60 1.) 321 sq. ft. of new gross floor area for an “Entrance Hall Connector”
61 expansion on 1st floor of east face of the dwelling, to point not closer than
62 37 ft. to MHW.
- 63 2.) 296 sq. ft. “Open Porch and Steps” addition on the 1st floor of the east
64 face of the dwelling (no new gross floor area).
- 65 3.) 65 sq. ft. “Walkway” from the proposed open porch to the driveway on
66 the east face of the dwelling (no new gross floor area).
- 67 4.) 319 sq. ft “Open Deck” on west face of dwelling (no new gross floor area
68 and no new lot coverage)
- 69 5.) 410 sq. ft. “Screened Porch and Steps” on the south face of the dwelling
70 (no new gross floor area)
- 71 6.) 317 sq. ft. “Hall Connector” on the 2nd floor on the east face of the
72 dwelling.
- 73 7.) 260 sq. ft. “Above the Garage Addition” vertical expansion on the 2nd
74 floor.
- 75 8.) 32 sq. ft. “Master Bath Addition” expansion on the 2nd floor on the south
76 face of the dwelling
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78 The applicant is proposing to expand a legal non-conforming primary dwelling
79 located within the 100 ft. Shoreline Development Buffer by approximately
80 538 sq. ft., or roughly 11.47% of the existing GFA within the Shoreline
81 Development Buffer. Lot coverage for the entire site would increase modestly
82 from 20,424 sq. ft. (5.7%) to 21,180 sq. ft. (5.9%), but within the 15% maximum
83 lot coverage threshold, as set forth in the *Talbot County Code* § 190-136.
84 Staff recommendations include:
85

- 86 1. The Department of Planning and Zoning reminds the Planning Commission
87 that they have the ability to: (1) recommend approval of all of the proposed
88 improvements, (2) recommend approval to a portion(s) of the proposed
89 improvements, or (3) recommend against the approval of the proposed
90 improvements.
- 91 2. The applicant shall make an application to the Office of Permits and
92 Inspections, and follow all rules, procedures, and construction timelines as
93 outlined regarding new construction.
- 94 3. The applicant shall commence construction of the proposed improvements
95 within eighteen (18) months from the date of the Planning Office’s ‘Notice to
96 Proceed’.
- 97 4. Natural vegetation of an area three times the extent of the approved
98 disturbance in the buffer shall be planted in the buffer or on the property if
99 planting in the Buffer cannot be reasonably accomplished. Disturbance
100 outside the buffer shall be 1:1 ratio. A Buffer Management Plan application
101 may be obtained through the Department of Planning and Zoning.

102
103 Bill Stagg of Lane Engineering attended on behalf of the applicant Charles Webb,
104 as did Tim Kerns of T. B. Kerns Design. Mr. Stagg stated that this project was
105 seen by the Planning Commission about a year and a half ago. He also said that
106 the application is essentially the same, but by comparison, this application
107 proposed substantially less gross floor area. He further commented that the
108 previous application proposed 744 sq. ft. of lot coverage, but this proposal
109 increases that to 756 sq. ft. Mr. Stagg indicated that the owner and Mr. Kerns
110 came up with this new design. Less gross floor area is being proposed on the main
111 water side; most of the work is on the backside of the house. Mr. Stagg agreed
112 with the staff report with the exception of the given distance from the water as 36
113 ft. He stated that it should be 37 ft.
114

115 Commissioner Boicourt asked for public comments. Commissioner Fischer
116 requested clarification on the 756 sq. ft. in the Critical Area that Mr. Stagg quoted
117 and the 538 sq. ft. in the staff report. Mr. Stagg explained that the 538 sq. ft. is the
118 increase in gross floor area and that the 756 sq. ft. is the increase in lot coverage.
119 Mr. Fischer also had an issue with 5(e) in the Staff Report, unrelated to this case,
120 which states, “The granting of the variance will not adversely affect water quality
121 or adversely impact fish, wildlife, or plant habitat...” He asked Ms. Deflaux if
122 that was a Talbot County statement or a Critical Area warrant. Ms. Deflaux said
123 that it was a Critical area warrant. Mr. Fischer stated that it was discomfoting, in
124 general, since the creation of more impermeable surface would create more
125 runoff. He further stated that if there were fertilization, pesticides, or herbicides,
126 then water quality would be adversely affected. Commissioner Fischer did not
127 have an issue with the second clause of paragraph (e) on page five of the Staff
128 Report.
129

130 Ms. Deflaux stated that the warrant had been in place for a long time. She
131 continued to say that the Buffer Management Plan which will mitigate three times
132 the disturbance in the buffer will be an offset to the adverse water quality impact.
133

134 **Commissioner Fischer moved to recommend to the Planning Officer to**
135 **approve the administrative variance for Charles H. Webb, 22601 River**
136 **Ridge Road, Bozman, Maryland 21612, provided compliance with staff**
137 **recommendations occurs. Commissioner Sullivan seconded the motion. The**
138 **motion carried unanimously.**
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- 140 b. Brian Tucker—7889 Fuller Road, St Michaels, MD 21663 (map 32, grid 13,
141 parcel 12, zoned Rural Residential), Charles Goebel, Architect, Agent.
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143 Elisa Deflaux presented the staff report of the applicant’s request to enclose an
144 existing pergola over an impervious deck partially within the 100 ft. Shoreline
145 Development Buffer into a roofed, unconditioned screen porch, with no knee
146 walls. This development activity will not increase the gross floor area (GFA) of
147 the existing dwelling.

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Staff recommendations include:

1. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office’s ‘Notice to Proceed’.

Architect, Charles Goebel, and Brian Tucker, property owner, appeared before the Commission. They proposed to replace the pergola roof structure with a reinforced structure as weather protection and extend the length of the impervious porch to square off with house; the house was built in 1942. Mr. Goebel stated that the reinforced roof will have roughly the same height as the pergola roof.

Commissioner Boicourt stated that this type of application could be solved at the Planning level.

Commissioner Boicourt asked for public comments; none were made.

Commissioner Spies moved to recommend the approval of the Administrative Variance for Brian F. Tucker, 7889 Fuller Road, St. Michaels, Maryland with staff recommendations; Commissioner Sullivan seconded the motion. The motion carried unanimously.

- c. B & D Sand and Gravel, LLC—1077 Hiners Lane, Easton, MD 21601 (map 17, grid12, parcel 4, zoned Agricultural Conservation), Dave Thompson, Esquire, Agent.

Elisa Deflaux presented the staff report of the applicant’s request to the Board of Appeals for a special exception to continue operation of a previously approved 5.1 acre existing surface mine for the extraction of sand and gravel and to expand the mining area by 4.6 acres for a total of 9.7+/- acres.

Staff recommendations include:

1. The Applicant will need to reclaim or apply for a variance of the encroachment into the 200 foot setback for the mineral extraction activities.
2. The Applicant shall obtain current Federal, State, and local permits as applicable.
3. The Applicant shall apply for and comply with the requirements of a Major Site Plan approval from the Talbot County Board of Appeals, Planning Commission, and Planning Office.

192 4. The Applicant shall furnish a reclamation plan, along with a surety bond, both
193 in a form acceptable to Talbot County. The bond is to guarantee the
194 completion of the reclamation plan.

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196 Elizabeth Fink, from Fink Whitten & Associates, along with Donnie Duvall and
197 Matt Browning from B & D Sand and Gravel, LLC, appeared before the
198 Commission. Ms. Fink indicated that they were headed to Board of Appeals on
199 December 19, 2016. She anticipated comments on the site plans from the
200 Planning Office.

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202 Commissioner Boicourt asked Ms. Fink if she had any trouble complying with
203 any of the four recommendations set forth by the Planning Office. She said she
204 did not have any problems complying with the recommendations except for the
205 reclamation plan; she planned to discuss the issue with Ms. Deflaux to ensure that
206 it complied with what Ms. Deflaux was looking for. Ms. Deflaux stated that the
207 reclamation plan was sent to Soil Conservation.

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209 Commissioner Fischer asked where the chain link fence stood. Ms. Fink stated
210 that a portion of the chain link fence was in the wooded backside of the pit. Ms.
211 Fink indicated the need to have a discussion with the Board of Appeals about the
212 chain link fence since the applicants did not feel it was necessary to have one in
213 that area.

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215 Ms. Fink further argued that the chain link fence issue was a recommendation that
216 came from a past special exception years ago that was never implemented.
217 Commissioner Boicourt surmised that the Board of Appeals must have been
218 concerned about the pond due to the presence of homes in that vicinity.
219 Commissioner Boicourt reminded the Planning Commission that it was a good
220 thing to give more reasons and more findings for recommendations; the
221 Commission was encouraged to do so in the past.

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223 Commissioner Boicourt asked for public comments; none were made.

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225 **Commissioner Spies moved to approve the special exception for B & D Sand**
226 **and Gravel to continue operation at 10775 Hiners Lane, Easton, MD 21601**
227 **with staff recommendations; Commissioner Spies noted that there was**
228 **nothing out of line with the previous request and that most of the conditions**
229 **that Staff talked about had either been met or were being dealt with.**
230 **Commissioner Fischer seconded the motion. The motion carried**
231 **unanimously.**

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233 **5. Discussions Items**
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6. Staff Matters

Ms. Deflaux stated that Commissioner Spies had been reappointed; his reappointment was applauded. Ms. Deflaux also reminded the Commission that selection of officers will be in January.

Ms. Deflaux gave an update on the Solar Bill; it was introduced by the County Council. The County Council had a public meeting on December 6, 2016 and addressed a letter of opposition from a lobbying group. The staff was able to address the concerns and justify the language in the Solar Bill. Ms. Deflaux further stated that a public hearing on the Solar Bill will be held on Friday, December 9, 2016 and on Tuesday, December 13, 2016, the Council will vote on the bill.

Commissioner Boicourt asked what the primary opposition was about. Ms. Deflaux remarked that the lobbying group had questions about some of the regulations.

Commissioner Councell added that he received a copy of the letter from the lobbyist group; the group objected to the acreage cap of 726 acres. Mr. Councell continued to say that a County Council member stated at the most recent meeting, that there was nothing that would preclude the Council from increasing the cap of 726 acres in the future if the County saw the need. The lobbyist group also objected to the 150 foot setback; the group felt that it was excessive. Mr. Councell explained that the 150 foot setback was subject to change if the affected property owner agreed to file for a lesser amount. The lobbyists were also concerned that the County spoke of agricultural lands in the same light as wetlands and environmentally sensitive areas. Mr. Councell reported that Mary Kay Verdery attended the meeting and addressed all those concerns. Scott Kane also spoke to those issues as well.

Commissioner Fischer inquired if Commissioner Councell had a sense of what the County Council’s position was, in general, on the Solar Bill. Mr. Councell said that the County Council did not give any indication of their inclination with regard to how they will vote on the bill. Mr. Councell stated that he would be surprised if the bill did not pass.

Commissioner Boicourt stated that he went on a kayak trip last weekend with Rich Hall, the former Planning Secretary under the previous administration, and spent two hours talking about Planning and Zoning. He shared about the discussions he had with Mr. Hall with regards to the time when Mr. Hall was a staffer and worked on the Vienna Conservation Plan. Mr. Boicourt reflected that the Town of Vienna launched a housing development project in which 400 housing units were constructed. Mr. Boicourt pointed out that it was thought to be unreasonable to find occupants for those housing units. With suggestions from State planners, one hundred extra units were added. The plan was carried out and involved almost everyone in the community.

280 Mr. Boicourt was asked why Talbot County did not implement what was done in Vienna
281 as this could work for the Villages. Mr. Boicourt stated that Mr. Rich Hall would be
282 willing to talk with the Planning Commission for thirty minutes about the Historic
283 Conservation Plan in Vienna. Mr. Boicourt expressed his admiration of that particular
284 planning history, and the relationship between State and County, and how the residents of
285 Vienna cared about doing the right thing.

286
287 Mr. Boicourt proposed to send out copies of the Vienna project to members of the
288 Planning Commission. Mr. Boicourt further stated that Mr. Hall, since the last
289 administration, referred to the Vienna Project as a digital book burning in the Department
290 of Planning; spark growth is no longer on the agenda. Mr. Boicourt also shared that he,
291 along with Mr. Hall and other colleagues, visited with Mr. Ross Springfield, the Mayor of
292 Vienna and former director of the Wye Research Center; Mr. Brinsfield, who is from the
293 Eastern Shore, bought a house in Vienna as a second home. Mr. Boicourt stated that
294 there is an additional plan called “The Future of the Eastern Shore” that he will be
295 sending out to the Planning Commission. The plan shows how the five counties- Talbot,
296 Caroline, Queen Anne, Kent, and Dorchester will handle growth over the next 30 years.
297 Commissioner Boicourt said that Talbot and Dorchester Counties were in good shape.

298
299 Commissioner Fischer did not see the comparison between Talbot County and the town
300 of Vienna as viable. He continued to say that Talbot’s major town had 4,000 acres of
301 designated growth area. Mr. Boicourt explained that the two regions were not directly
302 relatable, but the process was something that Talbot County could envision. He reiterated
303 that the inclusion of the locals and their vision had many parallels with what the Planning
304 Commission had heard from the unincorporated villages in Talbot County.

305
306 Mr. Boicourt suggested that such a vision could be the basis of Talbot County’s
307 comprehensive plan if the powers that be were interested. Mr. Boicourt did not advocate
308 discussing the matter any further unless the Commission was interested. He further stated
309 that he would ask Rich Hall to discuss the matter with the Planning Commission since
310 Mr. Hall’s other point of interest was the larger relationship of the state plan and the
311 county. Mr. Boicourt stated that such a relationship was still relevant to Talbot County.

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313 **7. Work Sessions**

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315 **8. Commission Matters**

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317 **9. Adjournment**—Commissioner Boicourt adjourned the meeting at 9:36 a.m.

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